

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:10-CV-125-RJC-DCK**

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|--|---|---------------------|
| TAMMY LOU FONTENOT, as |) | |
| Administratrix of the Estate of |) | |
| DARRYL WAYNE TURNER, deceased, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | <u>ORDER</u> |
| |) | |
| TASER INTERNATIONAL, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

THIS MATTER IS BEFORE THE COURT *sua sponte* regarding the parties' dispute over discovery. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b), and immediate review is appropriate. At the parties' request, the undersigned held a telephone conference today in an attempt to help the parties resolve areas of disagreement regarding certain discovery issues. The purpose of this Order is to briefly set forth the Court's oral direction to the parties conveyed during the telephone conference.

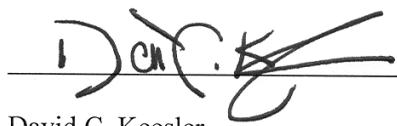
The issue presented to the Court for resolution related to the timing of the Defendant's deposition of the Plaintiff's expert. The Pretrial Order and Case Management Plan (Document No. 23) filed June 14, 2010 set the deadline for Plaintiff's expert reports as October 31, 2010, and the deadline for Defendant's expert reports as November 30, 2010. Put simply, counsel for the Defendant sought to depose Plaintiff's expert during the month of November – after the Plaintiff had served her expert's report, but before the Defendant had served its expert report.

The Court observes that the issue of expert discovery seems to be handled differently in various state and federal jurisdictions across the country. The Court appreciates and respects the

opposing positions taken on this issue by the parties in this litigation. Based on all the facts and circumstances presented, the undersigned finds that the best course is that the proposed deposition of the Plaintiff's expert occur on a date after November 30, 2010, when the Defendant's expert report will be served. Counsel for the parties are encouraged to determine the earliest convenient date for all concerned, hopefully during the month of December.

SO ORDERED.

Signed: November 2, 2010



David C. Keesler
United States Magistrate Judge
